

REMARKS

This is in full and timely response to the above-identified Office Action. Favorable reexamination and reconsideration is respectfully requested in view of the following remarks.

Re Examiner's response to previously submitted arguments

It is noted on page 33 of this Office Action, that the Examiner acknowledges that the rejection was not properly written due to the use of the indication that Rogerson does not explicitly teach[es] a method according to claim 6 . . . This is accompanied by the indication that this was deleted from the Office Action.

However, the instant rejection is still replete with references to a method according to claim . . . ; a computer network according to claim . . . ; and so on. Thus, by the Examiner's own admission that "a method according to claim 6 . . . , needed to be deleted, the instant rejection is still improperly written and needs to be extensively rephrased.

Rejections under 35 USC § 103

- 1) The rejection of claims 1-6, 8-15, 17-33 and 35 under 35 USC § 103(a) as being unpatentable over Rogerson in view of Huang et al. and further in view of Sehr is respectfully traversed.

It must be stressed that the rejection is made under § 103 and not § 102. A rejection cannot be 90% § 102 and the missing element found in another reference and some reason (most often heavily assisted by a full working knowledge of the invention) presented as motivation for what is purported to be an obvious transfer of teachings under § 103. All of the references, must be considered afresh and as a whole as they would be considered by the hypothetical person of ordinary skill. Indeed, in order to establish a *prima facie* case of obviousness, it is necessary to show that the hypothetical person of ordinary skill would, without any knowledge of the claimed subject matter and without any inventive activity, be motivated to arrive at the claimed subject matter given the guidance of the cited references when each is fully considered as statutorily required.

Keeping this in mind, the rejection cites paragraph [0079] as allegedly containing teachings which would lead the thinking of the hypothetical person of ordinary skill in the direction of the claimed subject matter. However, this section of Rogerson is such as to disclose:

[0079] Content data, such as updated web site information, digital music or video files might be initially loaded into the system through a content loading interface (illustrated as "new interface") 68 and stored in a high capacity memory buffer 70. The high capacity memory buffer might be implemented in any one of a number of different ways, including implementation as a hard disk drive, a writeable CD-ROM, a dish drive, and the like. This loading of content data into the system is preferably performed while the aircraft is at the terminal being services, **but can also be performed by accessing the requisite content sources through any one of the available satellite communication systems.** In this manner, the system **need not maintain continuous broadband communication with ground content sources.** It **need only access a ground content source in order to refresh the content hosted by its distributed server system or to add additional web pages, additional web services, or additional music or video files that have become available since the last update or refresh.** Necessarily, once the information is acquired by the system, it is directed to the appropriate DPU that has been designated to host that information for **long-term storage** and for passenger accessibility over the network. (Emphasis)

Faced with this disclosure, is it possible that the hypothetical person of ordinary skill would consider this to disclose:

uploading at least one data file into said on-board computer directly from one of **a portable memory unit** which is configured to be **detachably connectable with at least a portable computer**, and a **check-in computer provided at passenger check-in** to which the at least one data file has been **uploaded during passenger check-in**; (Emphasis added)

While there are two possible ways the data can be uploaded in the above quoted section of claim 1, it must be question as to what part of the above quoted section of Rogerson (or

indeed any part of Rogerson) suggests that the file comes from a **portable** memory which is detachably connectable with a **portable** computer? Alternatively, if we look only to the "check in computer", it is very, very unlikely that the hypothetical person of ordinary skill would consider paragraph [0079] of Rogerson to suggest that the video/music data etc., be uploaded to the "new interface" 68 from a computer at passenger check in. Why would the hypothetical person of ordinary skill rationally consider a check-in computer provided where passengers check in, for such a use?

Unless the Examiner can provide a cogent response to this question, it is submitted that all of the rejections should be withdrawn.

A check-in computer would be, without clear disclosure to the contrary, fully expected to be dedicated/directed and/or oriented to check-in, possible stand-bys, passenger identification (e.g. facial recognition) and the like. Why would this operation be additionally burdened, especially in this day and age, with video and music upload, and why would it be made at the location where passengers are checking in?

Without answers to these and other questions, the rejection cannot stand as being tenable. There is nothing, indeed nothing at all, to suggest that a check-in computer should be the source of the data which is suggested as being uploadable via the "new interface" 68. Further, as noted above, there is nothing in Rogerson that suggests that the files come from a **portable** memory unit which is configured to be **detachably connectable with at least a portable computer**. There is no disclosure of a memory having portability anywhere in Rogerson.

At this point it is pointed out that the American Heritage® Dictionary of the English Language: Fourth Edition. 2000, defines portable as something, such as a light or small typewriter, that can be carried or moved with ease.

Attention is also called to the fact that the CD-ROM, dish drive, hard disk etc., quoted in the rejection as apparatus that "might" be used, are onboard the air-craft and configured to receive the files - not send them. Further, while satellites are movable, they are in orbit miles above the surface of the earth and not at all suggestive of a **portable** memory for a **portable** computer - note the above dictionary based definition of the term "portable."

The assertion in the rejection that "digital music or video files might be initially loaded

into the system through a content loading interface (illustrated as "new interface") 68 and stored in a high capacity memory buffer 70" is noted. However, this is either during the receipt or after the upload and therefore of no relevance whatsoever to the subject matter being rejected. Further, what "might" or "might not" happen is moot in accordance with § 103 in that it is well established that:

The person of ordinary skill in the art "thinks along the lines of conventional wisdom in the art and is not **one who undertakes to innovate** *Standard Oil Co. v American Cyanamid Co.*, 227 USPQ2d 293, 298 (Fed. Cir. 1985) (Emphasis added)

It is reiterated that selected pieces of disclosure of a reference cannot be treated as in the case of a § 102 rejection. Here, the question is - what, in accordance with § 103 does the reference as a whole suggest? Does Rogerson suggest data upload while the aircraft is on the ground and at the terminal - yes. However, Rogerson also suggests that data can alternatively be downloaded from satellites. The overall tenor of the disclosure of Rogerson therefore tends to lead the thinking of the hypothetical person of ordinary skill away from "portable" laptops, floppies and the like, and toward larger more substantial/extensive server/web connections. Indeed, without any suggestion of a portable memory/computer in Rogerson, the rejection fails to remotely approach establishing a *prima facie* case of obviousness.

The fact that the disclosure as whole must be taken into consideration is again stressed and attention is called to paragraph [0118] of Rogerson wherein it is set forth:

[0118] **An in-flight entertainment system**, in accordance with the present invention, is used to provide a great deal of flexibility of **entertainment options to various passengers**, by implementing content delivery on the basis of a distributed server system, with each network node implemented in passenger seat. Audio/video-on-demand features of the system are fully interactive, **allowing a passenger to stop, pause, fast forward and rewind audio/visual content, as desired. In contrast to prior art-type in-flight entertainment systems**, the system of the present invention allows the network to interface with various other aircraft systems, thereby allowing the flight attendants or flight crew to monitor the system's

operational parameters, as well as extract inventory management and usage pattern data from the system in order to more efficiently configure for particular passenger loadings and/or routes. Similarly, passengers are able to monitor flight systems, such as cockpit to ground communications, whether radar displays, GPS location information and the like.

Note that the invention described in Rogerson is, when taken as a whole, directed to in-flight entertainment. This should be compared with the subject matter of Huang et al. which is cited to overcome an admitted shortcoming with respect to what is claimed and what is disclosed in Rogerson.

More specifically, Huang et al. is directed to a virtual desktop in a computer network. Thus, it must be questioned as to what would prompt the hypothetical person of ordinary skill to look to such an arrangement in connection with in-flight entertainment. It is thus submitted that Huang et al. is in fact non-analogous art. While both systems involve computers, the similarity stops there. There is no need for a virtual desktop in the Rogerson in-flight entertainment arrangements. In fact, if the Huang et al. system were to be used and the work station in the aircraft could used as a virtual desktop, then the files which are required could be accessed directly from the source computer via a wireless connection (note elements #14, 18, 20, 21-24 and antenna 26 in Fig. 1 of Rogerson) and the need to upload a file into a memory in the aircraft would be negated entirely. In fact, the disclosed arrangement of Rogerson would put this notion into the mind of the hypothetical person of ordinary skill immediately - why bother with the upload procedure if you can access it using wireless communications.

The fact that Huang et al. is relied upon, almost entirely out of context, to disclose the use of a password (viz., personal information/identification information) in the Rogerson environment is suggestive of the impermissible use hindsight. The rejection assumes, for the sake of rejection, that the password disclosed in Huang et al. to be a password associated with the data file that has been stored in an on-board computer system. However, this unsupported assumption is incorrect, because the password is, in accordance with the disclosure of Huang et al., the password associated with either the user's office or home PC - note again the possibility of a wireless connection to same. That is to say, any document that appears in the virtual desktop in Huang et al., is actually stored in one of the home or office PC's that are accessed,

and this therefore not suggestive of being stored in an on-board computer of a vehicle such as an aircraft, as would seem to be tenor of this rejection. In fact, as noted above, the use of the Huang et al. system would negate the need to upload the file in the first place.

The citation of Huang et al. is therefore submitted to be clearly detrimental to establishing a *prima facie* case of obviousness. The rejection is submitted to be untenable for at least this reason. Huang et al. when taken as a whole, teaches a system which teaches a system wherein communication with the office of home computer is established and the need to upload a file in the manner claimed is rendered unnecessary. In other words, the teachings of a virtual desktop actually leads away from the claimed subject matter.

The citation of Sehr only further muddies the waters. This newly cited Sehr reference is relied upon to disclose luggage check in. It is submitted that the only claim that this reference would have any relevance to, is claim 36. That is to say, claim 36 calls for the uploading of the at least one file into the check-in computer to be carried out from the portable computer which, following the upload, is relinquished and sent to a cargo hold of the passenger vehicle or craft.

Indeed, this is the only claim that refers to luggage being stored in the aircraft and the only claim that is vaguely related to the process that is disclosed in Sehr. Checking in luggage at the time of boarding an aircraft does not suggest that data is to be uploaded at this time, or that the luggage is a portable computer and therefore would not lead the hypothetical person of ordinary skill any closer to the claimed subject matter. The fact that the rejection relies on two lines of column 11, which state that "[I]n the latter context the passengers luggage will be identified at check in time; for instance, with a tag using a bar code means." has nothing at all to do with data upload, is indicative of lack of tenability of the rejection. At best, the use of a bar code is suggested and this would be data that the check in would use to direct the baggage to the correct destination.

The teachings of Jiang (cited in connection with claims 7 and 16) and Stahl et al. in connection with claim 34, do nothing to rectify the fatal shortcoming in teachings which are erroneously purported to be found in the primary reference. The rejections which are set forth in paragraphs #6 and #7 of this office action are therefore summarily traversed.

Conclusion

The rejections are flawed for at least the reasons that the basic requirements of the claims are not found in the references cited and in that the references themselves lead in a direction which would render consideration of the claimed file uploading unnecessary. Reconsideration and allowance of this application is submitted as being in order.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,
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